

REMARKS

This Amendment is submitted in response to the Final Office Action mailed 27 March 2007, and the Decision on Appeal mailed December 28, 2010 rejecting the appeal.

Claims 1-35 were pending in this application prior to entry of this amendment. Claims 1-35 have been rejected. Reconsideration and withdrawal of the rejections set forth in the Final Office Action dated March 27, 2007, are respectfully requested. This Request for Continued Examination (RCE) is filed prior to the expiration of the period for response to the Decision on Appeal.

In this Amendment, independent claims 1, 16, and 25 are added, claims 2, and 17-19 are cancelled, claims 36-43 were earlier cancelled, and claims 44-62 are added.

Without admitting the propriety of the Final Rejection or the Decision on appeal, applicant herewith submits amendments to the claims that further define over the cited art. Reconsideration on this basis is respectfully requested.

As the cited art has been characterized by Applicant, and differences between the earlier presented claims and the cited art have been extensively argued in prior office action responses and on Appeal, Applicant incorporates his earlier remarks by reference without repeating them in this response so that at least relative to the earlier recited claim elements, those distinctions will be clear. Applicant has further amended each of the independent claims to more clearly differentiate the claimed invention from the cited art, has amended and added additional dependent claims to recite further differences, and has added new independent claims that distinguish from the cited art.

By way of summary, the earlier claims presented on Appeal were rejected on under 35 U.S.C. § 102(b) and/or 35 U.S.C. § 103 as allegedly being anticipated and/or made obvious by Li, US Patent No. 5,757,771 ("Li"), Burnett, U.S. Patent No. 5,703,875 ("Burnett") in view of Li, Burnett and Li in view of Ellis, US Patent No. 5,497,371 ("Ellis"), Burnett and Li further in view of

Howe, US Published Patent Application No. 2003/0189922 ("Howe"), Burnett and Li further in view of Cidon, US Patent No. 5,343,473 ("Cidon").

Applicant submits that at least on the basis of the amendments and remarks made relative to the independent claims, each of the independent claims are patentable over the cited art. Furthermore, each of the dependent claims is patentable over the cited art at least for the same reasons as the underlying base claim, either directly, or through an intervening claim.

Applicant therefore requests reconsideration of the pending claims with an eye toward allowance and a withdrawal of the present rejection.

Independent Claim 1 now requires that the received packets:

"... including control packets and data packets, the control packets being one of a status control packet and a command control packet".

Independent Claim 1 as amended also requires:

... the control packets being stored in a first control packet portion of the memory and the data packets being stored in a second data packet portion of memory different from the first control packet portion of memory.

determining what stored packet to select according to a selection rule specifying that: (i) a data packet is selected from the data packet portion of the memory only when the control packet portion of the memory is empty unless the next data packet has been delayed more than a certain amount of time."

Applicant submits that none of the cited art discloses or fairly suggests or motivates any need for these features in combination with the other elements, features, and relationships recited in the claims, particularly the "status" and "command" type control packets and the memory structure and operation including the data packets and control packet portions of the packet memory.

Independent Claim 16, is now amended to require that the first data packets are data packets and the second data packets are control packets and further that the control packets are “selected from one of a status control packet and a command control packet”. In the decision on appeal, it was suggested that when the claim prior to amendment was interpreted broadly, the claim read on the cited art. With these amendments, applicant respectfully submits that the words of the claim distinguish over the cited art.

Applicant further submits that Claim 16 further requires certain memory and memory storage features including that of “... storing the control packets in a first control packet portion of a memory and storing the data packets in a second data packet portion of the memory different from the first control packet portion of the memory” Independent claim 16 is also now amended to require: ... retrieving from the memory and transmitting the received stored and retrieved packets in an order that is different from the order in which the packets were received based on whether the packets are a data packet type or a control packet type, and retrieving and transmitting packets only from the data packet portion of the memory when the control packet portion of the memory is empty.

With reference to the above cited claim 16 amendment, Applicant notes that the manner in which packets are selected for retrieval and transmission are different from that presented relative to other embodiments, in that the criteria or rule is “... whether the packets are a data packet type or a control packet type, and retrieving and transmitting packets only from the data packet portion of the memory when the control packet portion of the memory is empty.

With reference to independent Claim 25, it is now amended to require “a packet memory configured for separately storing a plurality of packet types including a control packet type and a data packet type”. Claim 25 as amended also requires “wherein control packets are stored in a control packet queue in a control packet memory portion defined in the memory and data packets are stored in a data packet queue in a data packet memory portion that is different from the control packet memory portion defined in the memory;”.

Applicant submits that the cited art, particularly Li and/or Burnett alone or in any combination fail to disclose, suggest, or motivate any need for the combination of features recited in any of independent claims 1, 16, or 25. There is also no suggestion in any of the references for the combination of references and as argued by applicant in prior responses, actually a teaching away from the suggested combination.

Newly added independent claim 62 is a means plus function claim that recites analogous features and is patentably distinguished from the cited art for analogous reasons. Applicant also requests that examination of claim 62 take into account the different structures disclosed in the application that differentiates from the structures in the cited art.

Independent claim 59 is directed to a particular packet memory device that recites the structure, control, and operation of a particular example of the packet memory of the innovation. Elements of claim 59 are linked to the features in dependent claim 57 as a particular example of a memory for the communications device.

Applicant has also added new dependent claims 44-58 and 60-61 to recite further distinguishing features over the cited art. Without repeating the language of these added claims here, Applicant notes that these claims identify particular characteristics of the control packets and data packets, features of the packet selection, retrieval, and/or transmission, features packet transmission preemption or interruption including some claims which recite particular procedural steps, and further features of the packet memory.

Applicant submits that each of the added claim elements are supported by the application as originally filed. While descriptions may be found and supported at various portions of the application as filed, Applicant notes that paragraphs [0079], [0085], and [0107] - [0116] of the published application and the figures referred to in these paragraphs provide particular support.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

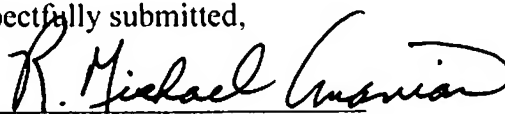
In the event that the examiner identifies any issues that would prevent Allowance of the claims as now amended, the favor of a telephone call is requested to the undersigned attorney to attempt to resolve any such issues.

Applicant believes no fee is due with this response. However, if a fee is due, such as for but not limited to fees for filing the RCE, for any added claims, or for any Petition for Extension of Time that may be available, please charge our Deposit Account No. 50-2207, under Order No. 59472-8813US (59472-8813.US01) from which the undersigned is authorized to draw.

Dated: 28 February 2011

Respectfully submitted,

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